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**BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF MONTANA**

In the Matter of the Disciplinary Treatment of the License of CHRIS CHRISTENSEN, M.D., Physician License No. MED-PHYS-LIC-4721.	Case Nos. 2014-MED-LIC-100 2014-MED-LIC-380 STIPULATION AND FINAL ORDER
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The Business Standards Division of the Department of Labor and Industry (Department) of the State of Montana, through its legal counsel and Chris Christensen, M.D., (Licensee), stipulate and agree as follows:

1. Jurisdiction. Licensee is licensed as a medical doctor by the Montana Board of Medical Examiners (Board), License No. Physician License No. MED-PHYS-LIC-4721. The Board has subject matter jurisdiction in this matter.
2. Waiver of Rights. Licensee has read and understands each term of the *Notice of Proposed Board Action and Opportunity for Hearing* (Notice) and this Stipulation, and understands the various rights provided, including the right to a hearing before an impartial hearing examiner, present evidence, testify, and confront and cross-examine witnesses at the hearing, be represented by legal counsel, subpoena witnesses, request judicial review and appeal, and all other rights under Mont. Code Ann. Title 2, ch. 4, pt. 6 (Montana Administrative Procedure Act), Title 37, ch. 1 and 3, and other applicable law. Licensee desires to avoid unnecessary expenditure of time and other valuable resources to resolve this matter. Therefore, Licensee voluntarily and

knowingly waives the rights listed above and elects to resolve this matter on the terms and conditions of this Stipulation and acknowledges that no promise, other than those contained in this Stipulation, and no threat or improper assertion has been made by the Board or Department or by any member, officer, agent, or representative of the Board or Department to induce Licensee to enter into this Stipulation.

3. Release. This Stipulation is a final compromise and settlement of this contested case proceeding. Licensee, and assigns, agents, and representatives of Licensee, release the Board, its members, officers, agents, or representatives from any and all liability, claim, and cause of action, whether now known or contemplated, including but not limited to, any claims under Mont. Code Ann. Title 2, ch. 9, pt. 3 (Montana Tort Claims Act), as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case, its processing, investigation, litigation, or from the negotiation or execution of this Stipulation.

4. Entire Agreement. This Stipulation contains the entire agreement of the parties. All prior discussions and writings are superseded by this Stipulation, and no discussion by the Board prior to the approval of this Stipulation may be used to interpret or modify it. Any modification requires a written amendment signed by both parties and final Board approval.

5. Severability. If a court or administrative tribunal declares any term or condition contained in this Stipulation to be unenforceable for any reason, the unenforceable term or condition shall be severed from the remainder of this Stipulation, and the remainder of this Stipulation shall be interpreted and enforced according to its original intent.

6. Reservation. This Stipulation does not restrict the Board from initiating disciplinary action concerning allegations of unprofessional conduct that occur after the date Licensee signs this Stipulation or concerning allegations of conduct not specifically mentioned in this Stipulation that are now known to the Board or yet to be discovered.

7. Stipulation Subject to Final Approval. This Stipulation is subject to final approval by the Board.

8. Renewed Right to Hearing – Inadmissibility of Stipulation. If the Board considers and does not approve this Stipulation, it is withdrawn and may not be considered as evidence for any purpose. Licensee will have a renewed 20 days from the date of the publicly noticed Board meeting to submit a written request for a hearing in this matter. Failure by Licensee to request a hearing constitutes a default and allows the Board to enter a Final Order of discipline against Licensee. If, instead, this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any record relating to this Stipulation.

9. Entry of Final Order – Stipulated Facts and Violations of Law. Licensee consents to the entry of a Final Order in this matter to the extent that it is consistent with this Stipulation and has final approval by the Board. The following are the unconditionally admitted facts and violations that support the disciplinary sanctions specified below.

This matter commenced with an emergency Screening Panel meeting held April 7, 2014. Based upon the Department's Report of Investigation presented to the Screening Panel, together with information gathered in the course of a search warrant executed by Ravalli County authorities on April 1, 2014, the Screening Panel moved to initiate discipline and simultaneously summarily suspended Dr. Christensen's license to practice medicine in Montana. On or about April 10, 2014, Dr. Christensen surrendered his DEA registration to federal authorities along with his supply of parenteral narcotics.

Since April 7, 2014, Dr. Christensen has not practiced medicine.

Dr. Christensen has not been charged with any criminal offense arising from his practice of medicine or stemming from the April 1, 2014, search warrant.

Records gathered during the April 1, 2014, search warrant include Dr. Christensen's patient charts. Inv. Carpenter included in her Investigation Report selected charts. These charts demonstrate breaches of the expected standard of medical care.

In some cases involving the treatment of chronic pain complaints, Dr. Christensen's charts demonstrate irresponsible and substandard prescribing of controlled substances. Dr. Christensen's prescriptions were written and timed so as to permit the patient to acquire excess pills over the number needed for the dosage for a given time period. Dr. Christensen's records reflect, in some cases, that he failed to properly counsel patients on the risks of these drug combinations and quantities and failed to adequately monitor the patients' use of these drugs. The patient records document not only high doses and quantities of methadone, but also these same patients were simultaneously prescribed Xanax, Soma and hydrocodone in excessive doses and quantities.

In the case of one patient, Dr. Christensen's internal billing form charged a patient for a "Complex Visit x2" meaning he spent double the time that he would ordinarily devote to a complex case. Dr. Christensen's chart note for that same date reads as follows:

9-13-13 Needs Med/F/U –
127/86
P.86

Nothing entered in the patient's chart indicated care justifying billing for a complex visit or a double complex visit.

Inv. Carpenter examined records from the Montana Prescription Drug Registry as part of her official investigation. Dr. Christensen prescribed to one chronic pain patient 8,900 methadone tablets in a 133 day period from August 2012 to December 2012 – roughly 67 tablets per day. In a 14 month period from August 2012 to October 2013 (428 days), Dr. Christensen prescribed that same patient 19,508 methadone tablets or over 45 tablets per day for over one year. It was not uncommon for this patient to fill prescriptions early with a 30-day supply of 1,000 tablets lasting as little 13 days.

Unusually large doses of controlled substances caused some pharmacists to resist or refuse to fill Dr. Christensen's prescription orders. In one case, a pharmacy refused to fill Dr. Christensen's narcotics prescriptions without Dr. Christensen first completing and filing a "treatment plan" for that patient. That pharmacy collected 43 treatments plans for patients whose conditions included, among others:

Chronic Pain Syndrome, Post-traumatic Arthritis, Spinal Stenosis - C Spine
Chronic Pain Syndrome, Visceral pain, Pancreatic Insufficiency
Chronic Pain Syndrome, Mechanical low back pain, sacroilitis, CRPS/RSD (L) lower extremity
Chronic Pain Syndrome, SI Joint dysfunction, L/S Radiculopathy
Chronic Pain Syndrome, Post traumatic arthritis, shoulder instability w/ neuropathy.

In every single case – regardless of condition – Dr. Christensen tendered the exact same "anticipated duration of therapy" providing for an indefinite period of narcotic treatment. Each treatment plan read:

Maintain stable dosage of opioid analgesics to achieve optimal function as at present.
Anticipate gradual self-weaning after 2 years adequate analgesia (neuroplasticity concept).
Estimated duration of treatment with narcotic medication: Indefinite

Dr. Christensen's medical practice was marked by substandard medical decision-making and judgment in some cases. When managing chronic pain patients, in the rare instances where Dr. Christensen's notes document a medical complaint other than pain, he failed to properly work-up a patient with expected testing and treatment. One obese patient on oral contraceptives complained of chest tightness and lower extremity edema, but Dr. Christensen performed no work-up. That same patient complaint of paresthesia and presented with a history of an abnormal cervical spine MRI, but Dr. Christensen performed no evaluation at all and simply continued the unusually high dose of narcotics previously prescribed. This patient, as well as many others, was on Medicaid and sought her primary care management from another provider.

Dr. Christensen's charting and medical records are in some cases illegible and are substandard. In some cases, Dr. Christensen's records fail to document even routine physical examinations and proper histories. The charts fail to include minimally acceptable "SOAP notes," documenting Subjective complaints, Objective determinations, Assessment, and Plan.

Dr. Christensen routinely entered a written controlled substances agreement with his patients entitled "Pain Management Agreement." That document purported to establish the terms of Dr. Christensen's opioid prescribing practices and Dr. Christensen's expectations of his chronic pain patients. That document is generally consistent with the standard of care in that, among other things, it required patients to

- Truthfully report their condition;
- Secure their medications against loss or theft and disallowed replacements for medications allegedly lost or stolen;
- Receive prescriptions from Dr. Christensen exclusively;
- Refrain from the use of illicit drugs;
- Refrain from diverting prescriptions to others; and
- Undergo body fluid testing to assure compliance with prescription orders.

However, in some cases, Dr. Christensen failed to hold patients to the terms of the Pain Management Agreement, amounting to a breach of the standard of care.

Some patient charts include a form letter "To Our Patients," describing expectations of those treated with opioid medications. Among the possible expectations announced in that letter is that the patient undergo a chemical dependency assessment. While some charts record that such an assessment was completed, the charts showed no response from Dr. Christensen even when the assessment suggested a serious potential risk to the patient. Additionally, the form letter advised patients that a physical therapy assessment, random urine drug screening, EKGs, or additional lab work may be ordered. Some charts contained no evidence that any of those measures were undertaken.

In the first months after regaining his DEA certificate in 2011, Dr. Christensen failed to secure blank prescription pads, leaving the pads within access of patients. One of Dr. Christensen's chronic pain patients admitted that she stole a prescription pad when left alone in a room with the blank pad.

In one instance, in an area of the clinic not used for patient care, Dr. Christensen had a collection of used medical sharps in an unlabeled bag without properly securing them. Dr. Christensen maintained a plastic bag of used bandages and medical waste in an unlabeled bag without properly securing them. No standard precautions for blood borne pathogens were observed for either the bag of sharps or the bag of medical waste. However in all examination and treatment rooms standard, approved medical sharps disposal containers were appropriately located.

The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. §§ 37-1-131, 37-1-136, 37-1-307, 37-1-309, and Title 37, ch. Licensee's actions constitute unprofessional conduct under the following Montana statutes and administrative rules:

37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

* * *

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

24.156.625 UNPROFESSIONAL CONDUCT

(1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 3, MCA:

* * *

(c) conduct likely to deceive, defraud or harm the public;

* * *

(p) administering, dispensing, prescribing or ordering a controlled substance, as defined by the federal Food and Drug Administration or successors, otherwise than in the course of legitimate or reputable professional practice;

* * *

(v) any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct;

* * * *

10. Dr. Christensen's Statement. Dr. Christensen wishes to express additional comments which are attached as Exhibit 1. The Department takes no position on the representations in Exhibit 1.

11. Stipulated Disciplinary Sanctions. Upon acceptance of this Stipulation by the Board, Licensee agrees to the following sanction:

A. Suspension & Reinstatement.

Dr. Christensen's license to practice medicine in the State of Montana is SUSPENDED for no less than 12 months. Mont. Code Ann. § 37-1-312(1)(b). This period of suspension shall be deemed to have commenced as of the date the Screening Panel issued its Summary Suspension Order, April 7, 2014, and Dr. Christensen ceased practicing medicine. This suspension will be deemed served and Dr. Christensen may return to the practice of medicine, as restricted below, upon the later of:

- i. entry of a Final Order of the Board accepting and adopting the parties' stipulation; OR
- ii. Dr. Christensen's completion, at his own expense, of the one-day medical record keeping seminar offered by the Center for Personalized Education for Physicians in Denver, Colorado. Mont. Code Ann. §37-1-312(1)(d). This program must be completed prior to the Board lifting the license suspension allowing Dr. Christensen to return to the active practice of medicine. Proof of completion must be furnished to the Board or its designee at

Board of Medical Examiners
Department of Labor and Industry
Att'n LaVelle Potter
P.O. Box 200514
Helena, MT 59620-0514

B. Restrictions regarding chronic pain treatment and medical marijuana.

Upon his return to active practice, Dr. Christensen's Montana medical license will be subject to restriction. Mont. Code Ann. §37-1-312(1)(c). The following terms apply to this restriction:

i. Dr. Christensen is prohibited from treating patients for chronic pain with opioids or other Schedule II drugs. To the extent permitted by his DEA registration status, Dr. Christensen may write pain medication proscriptions for no more than seven days for a given condition. This term is not meant to prohibit Dr. Christensen from writing additional pain medication prescriptions for a given patient for separate and distinct injuries or conditions that are independently supported by objective clinical findings nor is this term intended to prohibit Dr. Christensen from treating patients with nonpharmacological treatment such as injections, prolotherapy, neuroplasticity or other nonpharmacological modalities. However, Dr. Christensen may not write consecutive seven-day prescriptions for the same injury or condition to avoid this restriction.

ii. Dr. Christensen's authority to issue certifications for registry identification cards and patients' medical marijuana use under the Montana Marijuana Act, Mont. Code Ann. § 50-46-301 *et seq.* is restricted as follows.

a. Dr. Christensen is prohibited from issuing medical marijuana certifications outside of the ordinary course of his clinical practice and specifically is prohibited from serving as the consulting physician for third parties or care givers in mass conference-like settings. Mont. Code Ann. § 37-1-312(1)(c).

b. In issuing written certifications for medical marijuana use by qualifying patients, Dr. Christensen must adhere to all then applying medical standards of care, statutes and regulations governing medical marijuana, and governing case law including, but not limited to, the following:

1. Collecting and maintain for each patient all pertinent past medical records;
2. Taking a comprehensive past and present medical history for each patient;
3. Performing an appropriate physical examination;
4. Maintaining an ongoing, bona fide, physician-patient relationship including recommending follow-up at medically indicated intervals;
5. Conducting medical benefit/risk analysis for medical marijuana use;
6. Providing appropriate consultation time for each new patient and appropriate consultation time for established patients;
7. Counseling all patients on medical marijuana usage information including proper dosing and potential dangerous side effects; and

8. Identifying the debilitating medical condition for which medical marijuana is recommended.
- c. Dr. Christensen must thoroughly document each point required in the preceding paragraph.
- d. Dr. Christensen must maintain in his possession and control for a reasonable period, medical records for all patients for whom he issues a written certification for medical marijuana use.
- e. To assure compliance with the terms of the Final Order issued pursuant to this stipulation, Dr. Christensen will be subject to a peer review. This peer review will be completed according to the following terms.
 1. For two years following entry of the Final Order in this case, Dr. Christensen will maintain a log of each patient for whom he has issued a written certification for medical marijuana use. For each calendar quarter ending March 31, June 30, September 30, and December 31, Dr. Christensen will have 10 days to submit his complete log of medical marijuana patients to the Board of Medical Examiner's Compliance Specialist identified in paragraph 11(A) above. The two-year period will be tolled for any time that Dr. Christensen does not have an active Montana license or for any period that he is not actively practicing medicine in the State of Montana.
 2. From that patient log, the compliance officer will select a random sample of no more than ten patients whose charts Dr. Christensen will then promptly deliver to the compliance officer for submission for peer review. The peer reviewer will be named in the sole discretion of the Board of Medical Examiners and may be a Montana licensed physician, or a peer reviewer from a state that recognizes medical use of marijuana, if available through the Board's review contractor. Dr. Christensen will be solely responsible for the cost of the peer review up to \$1,500 per year; failure to pay that charge will be deemed a breach of this Final Order.
 3. Should the peer reviewer establish a breach of the terms of the Board's Final order, a breach of any applicable standard of care, other unprofessional conduct, or violation of any applicable law, the Board may move to initiate action on that violation(s).
- f. This term may be modified or eliminated no sooner than 12 months from the date of this Final Order upon a petition by Dr. Christensen filed with the Board under Mont. Code Ann. § 37-1-324.

C. Probationary license and preceptorship.

Upon his return to active practice, Dr. Christensen shall be issued a probationary license subject to the following terms. Mont. Code Ann. § 37-1-312(1)(e), (g).

i. Dr. Christensen's practice shall be subject to a supervised clinical preceptorship, under the supervision of a preceptor approved by the Adjudication Panel. Dr. Christensen has named _____ as his preceptor who is acceptable to the Board of Medical Examiners. The preceptor shall supervise Dr. Christensen's cases, initially reviewing all patient charts, and offering input to improve patient care. The preceptor shall submit quarterly reports to the Board on Dr. Christensen's progress. The level and frequency of direct supervision and chart reviews may be reduced as determined by the preceptor but chart reviews may not be fewer than 10% of Dr. Christensen's patients.

ii. Subject to modification, this probationary period will remain in place for two years from the date Dr. Christensen regains an active license to practice medicine. The two-year period will be tolled for any time that Dr. Christensen does not have an active Montana license or for any period that he is not actively practicing medicine in the State of Montana.

iii. This term may be modified or eliminated no sooner than 12 months from the date of this Final Order upon a petition by Dr. Christensen filed with the Board under Mont. Code Ann. § 37-1-324 and with the unreserved endorsement of the preceptor.

D. Breach and separate violations.

Any violation of the Board's Final Order in this case shall be deemed grounds for a new unprofessional conduct complaint under Mont. Code Ann. § 37-1-316(8) and/or Admin. R. Mont. 24.156.625(h), or other applicable authority. This Stipulation does not limit the Board's ability to initiate discipline for unprofessional conduct beyond that alleged in this Stipulation including action(s) based on any criminal conviction amounting to unprofessional conduct.

12. Public Documents. The Notice and this Stipulation and Final Order issued by the Board are public documents that the Department, at minimum, must make publicly available on the Department's website and professional databases, and may otherwise distribute to other interested persons or entities.

13. Complying with the Terms of the Stipulation. Licensee's failure to strictly abide by the terms of the Stipulation shall constitute a violation of the Final Order of the Board.

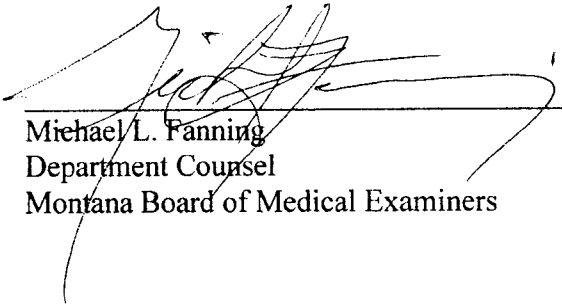
14. Reimbursement of Board Costs. No later than 90 days following the Board's approval of this Stipulation, Licensee shall reimburse the Board its costs of pursuing this license disciplinary action. The Board's costs include a fractional share of the compliance staff's preparation work for the Screening Panel meeting, a fractional or directly billable share of the Screening Panel's costs (preparation, travel, and per diem), of the legal office's costs (lawyer, paralegal, secretary, service of process), and of the Adjudication Panel's costs

(preparation, travel, and per diem). It is impossible to precisely quantify the actual costs of prosecution, so the reasonable cost of prosecution to be reimbursed in this case is **\$2,000 (two thousand dollars)**. The costs of prosecution are to be deposited in the Board's special revenue account as an offset to Board costs and expenses and shall be paid by cashier's check or money order, payable to the Board, delivered to the Board office at 301 South Park Avenue, P.O. Box 200514, Helena, Montana 59620-0514.



Chris A. Christensen, M.D.
Licensee

MAY 5, 2015
DATE



Michael L. Fanning
Department Counsel
Montana Board of Medical Examiners

MAY 6, 2015
DATE